

Montana Water Court  
PO Box 1389  
Bozeman, MT 59771-1389  
1-800-624-3270  
(406) 586-4364  
watercourt@mt.gov

**FILED**  
08/08/2023  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
40K-0191-R-2022  
Lockman, Melissa  
4.00

IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
WHITEWATER CREEK - BASIN (40K)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANTS: United States of America (Bureau of  
Land Management)

**CASE 40K-0191-R-2022**

40K 72676-00	40K 73147-00
40K 72677-00	40K 73164-00
40K 72968-00	40K 73165-00
40K 72969-00	40K 73166-00
40K 73040-00	40K 73167-00
40K 73146-00	

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

The above-captioned claims appeared in the Preliminary Decree for Whitewater Creek (Basin 40K) issued on March 7, 2019. The claims are owned by the United States

Department of Interior, Bureau of Land Management (BLM). The claims did not receive objections, counterobjections, or notices of intent to appear but did receive issue remarks during the DNRC's claims reexamination.

### FINDINGS OF FACT

#### **40K 72676-00 and 40K 72677-00**

1. Claim 40K 72676-00 was decreed as a wildlife claim for a pothole lake in the W2SENE of Section 23, T37N, R28E, Phillips County. Claim 40K 72677-00 was decreed as a stock claim, and multiple use of claim 40K 72676-00, from the same pothole lake.

2. The claims received the following issue remark:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE POTHOLE LAKE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

3. The Court ordered the BLM to file information resolving the point of diversion issue remark.

4. The BLM filed a response that included the Declaration of Melissa Norris. (Doc.<sup>1</sup> 2.00). Ms. Norris is employed by the BLM as a Water Rights Specialist.

5. Ms. Norris reviewed claims 40K 72676-00 and 40K 72677-00, and determined the pothole lake is in the NWSE of Section 23, T37N, R28E, Phillips County.

6. Claim 40K 72676-00 also received the following issue remarks:

AN AMENDMENT WAS SUBMITTED ON 03/26/2018 REQUESTING TO AMEND THE MEANS OF CONVEYANCE, PRIORITY DATE, AND TYPE OF RIGHT. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

THIS CLAIM IS BASED ON PUBLIC WATER RESERVE NO. 107 CREATED BY EXECUTIVE ORDER DATED APRIL 17, 1926. IT IS NOT CLEAR IF THIS CLAIMED RIGHT IS A FEDERAL RESERVED WATER RIGHT, BUT IF IT IS, IT IS NOT CLEAR WHETHER THE PURPOSE CLAIMED WAS CONTEMPLATED BY SUCH A RESERVATION, OR IF THE AMOUNT OF WATER CLAIMED IS THE AMOUNT NECESSARY TO FULFILL THE PURPOSE OF THE RESERVATION.

7. The amendment submitted to the DNRC requests that the priority date and type of historical right be modified as follows:

Priority Date:	<del>April 17, 1926</del>	<u>July 11, 1935</u>
Type of Historical Right:	<del>Reserved</del>	<u>Use</u>

8. The amendment also requested that the means of diversion be modified to "Wildlife Direct from Source." The means of diversion was modified prior to the issuance of the Basin 40K Preliminary Decree.

---

<sup>1</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

9. BLM attached a copy of Public Water Reserve No. 107 to the amendment. This filing supports the modifications requested in BLM's amendment.

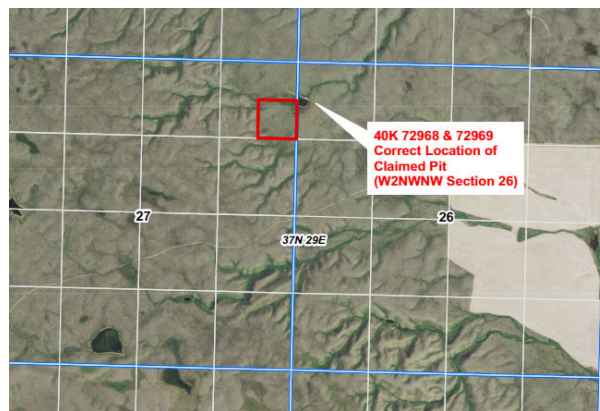
**40K 72968-00 and 40K 72969-00**

10. Claim 40K 72968-00 was decreed as a stock claim for a pit. The decreed point of diversion was the W2NWNW of Section 27, T37N, R29E, Phillips County, while the decreed place of use was the SENENE of Section 27, T37N, R29E, Phillips County. Claim 40K 72969-00 was decreed as a wildlife claim, and multiple use of claim 40K 72968-00, from the same pit.

11. Both claims received the following issue remark:

THE PLACE OF USE APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT PLACE OF USE LEGAL LAND DESCRIPTION APPEARS TO BE THE W2NWNW SEC 27 TWP 37N RGE 29E PHILLIPS COUNTY.

12. Ms. Norris reviewed claims 40K 72968-00 and 40K 72969-00 and determined the pothole lake is located in the W2NWNW of Section 26, T37N, R29E, Phillips County:



**40K 73040-00**

13. Claim 40K 73040-00 was decreed as a stock claim for a reservoir in the NENWNW of Section 32, T37N, R29E, Phillips County. The place of use was decreed as the NENENW of Section 32, T37N, R29E, Phillips County.

14. The claim received the following issue remark:

THE PLACE OF USE APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT PLACE OF USE LEGAL LAND DESCRIPTION APPEARS TO BE THE NENWNW SEC 32 TWP 37N RGE 29E PHILLIPS COUNTY.

15. Ms. Norris review claim 40K 73040-00 and determined the place of use should be modified to the NENWNW of Section 32, T37N, R29E, Phillips County.

#### **40K 73146-00**

16. Claim 40K 73146-00 was decreed as a wildlife claim for a pothole lake in the SWSWSE of Section 6, T37N, R30E, Phillips County. The claim received the following remark:

THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS MAY NEED A MULTIPLE USE REMARK. 40K 73146-00, 40K 73147-00.

17. Claim 40K 73146-00 was decreed with a multiple use remark.

#### **40K 73164-00 and 40K 73165-00**

18. Claim 40K 73164-00 was decreed as a January 26, 1936 wildlife claim for a pothole lake in the W2NWNE of Section 8, T37N, R30E, Phillips County.

19. Claim 40K 73165-00 was decreed as a January 26, 1938 stock claim for a pothole lake also in the W2NWNE of Section 8, T37N, R30E, Phillips County.

20. Both claims received the following issue remark:

THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS MAY NEED A MULTIPLE USE REMARK. 40K 73164-00, 40K 73165-00.

21. Claim 40K 73164-00 also received the following issue remark:

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED STATEMENT OF CLAIM IS 01/26/1938.

22. Ms. Norris reviewed claims 40K 73164-00 and 40K 73165-00 and determined they are multiple uses of the same right. She found the priority date for claim 40K 73164-00 should be modified to January 26, 1938 and a multiple use remark should be added to both claims.

#### **40K 73166-00 and 40K 73167-00**

23. Claim 40K 73166-00 was decreed as a January 26, 1936 wildlife claim for a pothole lake in the NESE of Section 8, T37N, R30E, Phillips County.

24. Claim 40K 73167-00 was decreed as a January 26, 1938 stock claim for a pothole lake also in the NESE of Section 8, T37N, R30E, Phillips County.

25. Both claims received the following issue remark:

THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS MAY NEED A MULTIPLE USE REMARK. 40K 73166-00, 40K 73167-00.

26. Claim 40K 73166-00 also received the following issue remark:

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED STATEMENT OF CLAIM FORM IS 01/26/1938.

27. Ms. Norris reviewed claims 40K 73166-00 and 40K 73167-00 and determined they are multiple uses of the same right. She found the priority date for claim 40K 73166-00 should be modified to January 26, 1938 and a multiple use remark should be added to both claims.

### **Notice-Type Issue Remarks**

28. The claims also received the following notice-type issue remarks:

*40K 72676-00*

THIS CLAIM WAS NOT INCLUDED IN THE BASIN 40K TEMPORARY PRELIMINARY DECREE ISSUED NOVEMBER 21, 1989.

SOURCE NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

*40K 72677-00, 40K 73146-00, 40K 73147-00*

SOURCE NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

*40K 72968-00, 40K 72969-00, 40K 73040-00*

SOURCE NAME, POINT OF DIVERSION AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

29. The issue remarks identify elements modified as a result of DNRC review pursuant to Montana Water Court reexamination orders. The remarks indicate that if no objections are filed, the elements of the claim will remain as they appear on the abstract and the remarks will be removed. None of the claims received objections.

### **PRINCIPLES OF LAW**

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.
2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.
3. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.
4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

5. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

7. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

8. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

#### CONCLUSIONS OF LAW

##### **40K 72676-00 and 40K 72677-00**

1. The point of diversion issue remark overcomes the prima facie status of claims 40K 72676-00 and 40K 72677. The evidence shows by a preponderance of the evidence that the claimed pothole lake is located in the NWSE of Section 23, T37N, R28E, Phillips County.

2. The amendment issue remark overcomes the prima facie status of claim 40K 72676-00. BLM showed by a preponderance of the evidence that the priority date of claim 40K 72676-00 is July 11, 1935 and the type of historical right is “use.”

##### **40K 72968-00 and 40K 72969-00**

3. The place of use issue remark overcomes the prima facie status of claims 40K 72968-00 and 40K 72969-00. BLM showed by a preponderance of the evidence that the claimed reservoir is located in the W2NWNW of Section 26, T37N, R29E, Phillips County.

#### **40K 73040-00**

4. The place of use issue remark overcomes the prima facie status of claim 40K 73040-00. BLM showed by a preponderance of the evidence that the claimed reservoir is located in the NENWNW of Section 32, T37N, R29E, Phillips County.

#### **40K 73146-00**

5. The multiple use issue remark does not overcome the prima facie status of claim 40K 73146-00. The claim was decreed with a multiple use remark.

#### **40K 73164-00 and 40K 73165-00**

6. The priority date issue remark overcomes the prima facie status of claim 40K 73164-00. BLM's requested modification of the priority date to January 26, 1938 is a reduction.

7. The multiple use issue remark overcomes the prima facie status of claims 40K 73164-00 and 40K 73165-00. The claims are multiple uses of the same right.

#### **40K 73166-00 and 40K 73167-00**

8. The priority date issue remark overcomes the prima facie status of claim 40K 73166-00. BLM's requested modification of the priority date to January 26, 1938 is a reduction.

9. The multiple use issue remark overcomes the prima facie status of claims 40K 73166-00 and 40K 73167-00. The claims are multiple uses of the same right.

#### **Notice-Type Issue Remarks**

10. Each remark in Finding of Fact No. 29 provides notice of the changes made after completion of the Temporary Preliminary Decree proceedings and prior to issuance of the Preliminary Decree. The remarks do not raise unresolved issues that need to be addressed. No proceedings are required to resolve the remarks; the remarks should be removed from the abstracts.

#### **RECOMMENDATIONS**

1. The priority date of claim 40K 72676-00 should be modified to July 11, 1935, the type of right should be modified to "use."

2. The point of diversion and place of use for claims 40K 72676-00 and 40K 72677-00 should be modified to the NWSE of Section 23, T37N, R28E, Phillips County.

3. The point of diversion and place of use for claims 40K 72968-00 and 40K 72969-00 should be modified to the W2NWNW of Section 26, T37N, R29E, Phillips County.
4. The place of use for claim 40K 73040-00 should be modified to the NENWNW of Section 32, T37N, R29E, Phillips County.
5. The priority date for claim 40K 73164-00 should be reduced to January 26, 1938.
6. A multiple use remark should be added to claims 40K 73164-00 and 40K 73165-00.
7. The priority date for claim 40K 73166-00 should be reduced to January 26, 1938.
8. A multiple use remark should be added to claims 40K 73166-00 and 40K 73167-00.
9. All issue remarks should be removed from the claims.

A post decree abstract of each water right claim reflecting the recommended changes is attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via Electronic Mail**

USA Department of Interior  
Bureau of Land Management  
5001 Southgate Dr.  
Billings, MT 59101-4669  
mnorris@blm.gov  
MontanaBasins.ENRD@USDOJ.GOV



**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 72676-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JULY 11, 1935

**Type of Historical Right:** USE

**Purpose (use):** WILDLIFE

**Flow Rate:**

**Volume:** 1.31 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF INTERIOR DRAINAGE

**Source Type:** SURFACE WATER

POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSE	23	37N	28E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WILDLIFE DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWSE	23	37N	28E	PHILLIPS

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 72677-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** DECEMBER 31, 1888

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** 0.62 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF INTERIOR DRAINAGE

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSE	23	37N	28E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWSE	23	37N	28E	PHILLIPS

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 72968-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JUNE 16, 1966

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** 0.62 AC-FT

**Source Name:** MANMADE PIT, UNNAMED TRIBUTARY OF WHITEWATER CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2NWNW	26	37N	29E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** PIT

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
W2NWNW		26	37N	29E	PHILLIPS

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2NWNW	26	37N	29E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

72968-00

72969-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 72969-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JUNE 16, 1966

**Type of Historical Right:** USE

**Purpose (use):** WILDLIFE

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS  
ONSTREAM RESERVOIR.

**Volume:** 7.38 AC-FT

**Source Name:** MANMADE PIT, UNNAMED TRIBUTARY OF WHITEWATER CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2NWNW	26	37N	29E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** PIT

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	W2NWNW	26	37N	29E	PHILLIPS

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2NWNW	26	37N	29E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

72968-00

72969-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 73040-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** DECEMBER 31, 1942

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** 0.62 AC-FT

**Source Name:** INTERIOR DRAINAGE

**Source Type:** SURFACE WATER

POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNW	32	37N	29E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWNW	32	37N	29E	PHILLIPS

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWNW	32	37N	29E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73040-00

73041-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 73146-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** APRIL 7, 1936

**Type of Historical Right:** USE

**Purpose (use):** WILDLIFE

**Flow Rate:**

**Volume:** 2.90 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF INTERIOR DRAINAGE

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSWSE	6	37N	30E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WILDLIFE DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWSWSE	6	37N	30E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73146-00          73147-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 73147-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** APRIL 7, 1936

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** 0.62 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF INTERIOR DRAINAGE

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSWSE	6	37N	30E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWSWSE	6	37N	30E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73146-00

73147-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 73164-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JANUARY 26, 1938

**Type of Historical Right:** USE

**Purpose (use):** WILDLIFE

**Flow Rate:**

**Volume:** 1.31 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF WHITEWATER CREEK

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2NWNE	8	37N	30E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WILDLIFE DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2NWNE	8	37N	30E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73164-00      73165-00



**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**WHITEWATER CREEK**  
**BASIN 40K**

**Water Right Number:** 40K 73165-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JANUARY 26, 1938

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** 0.62 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF WHITEWATER CREEK

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2NWNE	8	37N	30E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2NWNE	8	37N	30E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73164-00      73165-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
WHITEWATER CREEK  
BASIN 40K**

**Water Right Number:** 40K 73166-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JANUARY 26, 1938

**Type of Historical Right:** USE

**Purpose (use):** WILDLIFE

**Flow Rate:**

**Volume:** 1.31 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF WHITEWATER CREEK

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESE	8	37N	30E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WILDLIFE DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESE	8	37N	30E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73166-00      73167-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**WHITEWATER CREEK**  
**BASIN 40K**

**Water Right Number:** 40K 73167-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)  
5001 SOUTHGATE DR  
BILLINGS, MT 59101 4669

**Priority Date:** JANUARY 26, 1938

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** 0.62 AC-FT

**Source Name:** UNNAMED TRIBUTARY OF WHITEWATER CREEK

**Source Type:** SURFACE WATER  
POTHOLE LAKE

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESE	8	37N	30E	PHILLIPS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESE	8	37N	30E	PHILLIPS

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

73166-00      73167-00